

# Exhibit 6



December 11, 2003

1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
PHONE: 206.583.8888  
FAX: 206.583.8500  
[www.perkinscoie.com](http://www.perkinscoie.com)

Sean R. Matt  
Hagens Berman LLP  
1301 Fifth Avenue  
Seattle, WA 98101

**VIA MESSENGER**

**Re: In re Pharmaceutical Industry AWP Litigation,  
MDL No. 1456, Civil Action No. 01-CV-12257-PBS**

Dear Sean:

Enclosed please find the following documents:

- IAWP900516-0521
- IAWP905918
- IAWP905922-905928
- IAWP906094-906114
- IAWP906173-906174
- IAWP906269-906270
- IAWP906376-906387
- IAWP906388-906400
- IAWP912138-912660

Your colleagues selected the preceding list of documents for copying and production from the five boxes (IAWP900001-IAWP912660) that Immunex made available for your review on Monday, December 8, 2003.

Very truly yours,

Zoe Philippides

cc: David J. Burman

[06735-0051/SL033450.103]

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · HONG KONG · LOS ANGELES  
MENLO PARK · OLYMPIA · PORTLAND · SAN FRANCISCO · SEATTLE · WASHINGTON, D.C.

Perkins Coie LLP (Perkins Coie LLC in Illinois)

# Exhibit 7



David J. Burman  
PHONE: 206.359.8426  
FAX: 206.359.9426  
EMAIL: DBurman@perkinscoie.com

1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
PHONE: 206.359.8000  
FAX: 206.359.9000  
www.perkinscoie.com

April 26, 2004

**VIA MESSENGER**

Steve W. Berman  
Sean Matt  
Hagens Berman LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101

**Re: Pharmaceutical Industry Average Wholesale Price Litigation, MDL 1456**

Dear Steve and Sean:

Pursuant to our meet-and-confer of Tuesday, April 20, regarding Plaintiffs' Omnibus Requests for Production, and our exchange of e-mails over the past few days, enclosed are:

- (1) historical organizational charts requested in Omnibus RFP No. 2 (bates numbered IAWP150497 – IAWP150526);
- (2) two CDs that we made available for your review as of December 2002 pursuant to CMO 5 (IAWP149257-58); and
- (3) 19 floppy disks that we made available for your review as of December 2002 pursuant to CMO 5 (IAWP 135250-57, IAWP 135260-68, and IAWP 149255-56).

We provided you with a copy of these CDs and the floppy disks in a letter dated June 9, 2003, from Katie O'Sullivan to Sean. (A copy of this letter is also enclosed.) One CD contains (a) Excel spreadsheets containing such sales data from DDD as Immunex has reflecting the ultimate customer, (b) Excel spreadsheets containing information about wholesaler sales and chargebacks, and (c) an Excel spreadsheet containing information

[06735-0051/SL041130.127]

ANCHORAGE • BEIJING • BELLEVUE • BOISE • CHICAGO • DENVER • HONG KONG • LOS ANGELES  
MENLO PARK • OLYMPIA • PORTLAND • SAN FRANCISCO • SEATTLE • WASHINGTON, D.C.

Perkins Coie LLP (Perkins Coie LLC in Illinois)

Steve W. Berman  
Sean Matt  
Hagens Berman LLP  
April 26, 2004  
Page 2

about direct sales (i.e., not through wholesalers). Thus, this CD contains information sought in Omnibus RFP Nos. 25-27.

The other CD contains Access spreadsheets from Immunex's call notes database. Thus, this CD contains information sought, at least in part, in Omnibus RFP Nos. 47-48.

17 of the floppy disks contain quarterly information about sales of Immunex products to individual customers (sought in Omnibus RFP Nos. 25-27). The remaining two floppy disks contain information about Immunex's professional samples program (sought in Omnibus RFP no. 37).

To confirm our recent e-mail exchange, the next step on the Immunex side is that we are working on putting together a list of the additional electronic financial and transactional information that Immunex still has in a usable electronic format. We should have that to you in the next few weeks, along with formal objections to the omnibus discovery requests and the 30(b)(6) notice.

You also mentioned some specific types of "core" information. We are determining what else, if anything, we might have. As I said in our meet-and-confer and by e-mail, please let us know if there are other specific categories of documents that you want us to follow up on.

Very truly yours,



David J. Burman

Enclosures

cc: Kathleen M. O'Sullivan

# Exhibit 8



Kathleen M. O'Sullivan  
PHONE: 206.359.6375  
FAX: 206.359.7375  
EMAIL: KOSullivan@perkinscoie.com

1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
PHONE: 206.583.8888  
FAX: 206.583.8500  
www.perkinscoie.com

June 17, 2004

**VIA MESSENGER**

Steve W. Berman  
Sean Matt  
Hagens Berman LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101

**Re: Pharmaceutical Industry Average Wholesale Price Litigation, MDL 1456**

Dear Steve and Sean:

Enclosed please find a CD containing Immunex's transactional sales data from 1997-2002. The CD contains the electronic data outlined in Dave Burman's letter to you dated May 13, 2003. The CD is bates numbered IAWP150900 and contains Highly Confidential material under the Protective Order in effect in this case.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathleen M. O'Sullivan".

Kathleen M. O'Sullivan

KMO:pr

Enclosure

[06735-0051/SL041670.193]

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · HONG KONG · LOS ANGELES  
MENLO PARK · OLYMPIA · PORTLAND · SAN FRANCISCO · SEATTLE · WASHINGTON, D.C.

Perkins Coie LLP (Perkins Coie LLC in Illinois)

# Exhibit 9



Kathleen M. O'Sullivan  
PHONE: 206.359.6375  
FAX: 206.359.7375  
EMAIL: kosullivan@perkinscoie.com

1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
PHONE: 206.359.8000  
FAX: 206.359.9000  
[www.perkinscoie.com](http://www.perkinscoie.com)

May 20, 2005

Sean R. Matt, Esq.  
Hagens Berman Sobol Shapiro LLP  
Suite 2900  
1301 Fifth Avenue  
Seattle, WA 98101

Re: In re Pharmaceutical Industry AWP Litigation  
Immunex Transactional Data

Dear Sean:

I write in response to your letter dated April 21 regarding Immunex's production of transactional data in early 2003 (in response to Case Management Order No. 5) and in May 2004 (in response to our meet and confer regarding Plaintiffs' Omnibus Requests for Production and Interrogatories). My letter follows the outline of issues presented in your letter.

Before turning to your specific requests, however, I wanted to remind you again of Immunex's unique circumstances among the defendants in the MDL. Immunex has not marketed or sold any of the products at issue in the AMCC (or any other products) in years (three to four years depending on the product). Immunex sold the rights to leucovorin calcium and methotrexate sodium in June 2001 and Immunex sold the rights to Leukine in June 2002. Immunex was acquired by Amgen in July 2002 and Amgen thereafter sold the marketing rights to Novantrone in November 2002 and discontinued marketing and selling Thioplex in November 2002. Obviously, Immunex does not possess transactional documents subsequent to the 2001 and 2002 dates of the sales, licensing, and termination of these products. As you can imagine, the fact that Immunex has not sold these products for years also has implications regarding the maintenance and accessibility of electronic data regarding these products.

[06735-0051/SL051170.172]

Sean R. Matt, Esq.  
May 20, 2005  
Page 2

## 1. Direct Sales / Transaction Data

- a. Your letter states that you only have transaction-level sales data for Leukine and Novantrone, such as IAWP 135250-57. Enclosed in this letter is a CD containing the transaction-level sales data that you requested for Thioplex, leucovorin calcium, and methotrexate sodium (e.g. "1997 Sales by Transaction.xls."). The CD contains similar yearly files from 1997-2001 for all five products at issue.
- b. Your letter states that you only have transactional sales data from January 1995 to June 2000, and you request data covering the remainder of the class period. Given that the AMCC contains allegations as to Immunex AWPs from 1997 to 2002, Immunex has objected to the production of any documents or data that pre-date 1997. The CD enclosed in this letter contains the transaction-level sales data that Immunex has in its possession, which goes through December 2001. Immunex has not been able to locate any transactional sales data for the limited products sold by Immunex during portions of 2002. However, Immunex has summary level financial data for the year 2002, which is included on the enclosed CD ("2002HistorybyNDC.xls").
- c. Your letter requests a description of the codes for classes of trade included in the transactional sales data. The descriptions for the class of trade codes are implicit in the raw data itself (see "Class Translation" and "Trade Class" fields in the data).
- d. Your letter states that the data contains "NDCs" in a "non-standard" format, "i.e., they are not in the NDC-11 format." The NDCs in this data contain the six digits that identify each of Immunex's products in its particular formulation; it simply omits the five-digit prefix that corresponded to all of Immunex's products (and as to which, Immunex did not need to remind itself in its data). The data also identifies the specific Immunex product and formulation under the field "Product Name" (e.g., Leukine Vial, 250 mcg").
- e. Your letter asks for data regarding records such as "returns, discounts, price adjustments or other price offsets." Although we don't know exactly what you mean by "price adjustments or other price offsets," we

Sean R. Matt, Esq.  
May 20, 2005  
Page 3

refer you to the "Sales History by Product" database on the enclosed CD, which would show any discounts. The pharmaceutical purchase agreements that Immunex produced pursuant to CMO 5 also include information on pricing with Immunex's customers, including discounts off of list price.

- f. Your letter asks various questions about the documents labeled, e.g., "1997HistorybyNDC.xls." Immunex does not have any similar documents after third quarter 2002 because, as explained above, Immunex was no longer selling any of these products at that time. You ask how "Net Sales" and "ASP" were calculated in these documents. "Net Sales" was calculated as follows: Invoice sales less the reserve for returns, chargebacks, Medicaid rebates, administrative fees, and terms discounts. "ASP" appears not to have been a defined term at Immunex or by statute or regulation during this time period. As these documents show, however, Immunex internally calculated something called "ASP Net," which Immunex calculated as net sales divided by units sold.

## 2. Indirect Sales / Chargeback Data

Your letter states that Immunex produced transaction-level chargeback data for Leukine and Novantrone, and requests the production of similar data for the other three Immunex products at issue in the AMCC. Immunex produced the Leukine and Novantrone chargeback data to plaintiffs in the MDL in response to CMO 5, as it had previously produced this data to the government in 2001. That data was maintained by an outside vendor and the licensing agreement for that database is long lapsed and would be extraordinarily expensive to renew at this time. Immunex certainly will not undertake the renewal of this license without a discussion regarding cost-shifting or, at the minimum, cost-sharing of this expense.

## 3. Rebate and Administrative Fee Data

Your letter requests data regarding all rebate or administrative fee transactions. On the CD enclosed in this letter is a "Sales History by Product.xls" database, which contains information responsive to this request on a quarterly basis.

Sean R. Matt, Esq.  
May 20, 2005  
Page 4

#### 4. Free Samples Data

- a. Your letter states that you "only have free samples data for Leukine and Novantrone." The data that Immunex produced consisted of "Professional Samples Status Reports," which demonstrate that the products included in Immunex's professional samples program were Leukine and Novantrone. Immunex did not issue "free samples" of all of its products. Moreover, following the production of over a hundred boxes of Immunex documents and a great deal of electronic data, you have no evidence that Immunex's professional samples program was improper in any way. We object further to requests for documents regarding Immunex's professional samples program.
- b. Your letter states that the professional samples status reports that Immunex produced do not indicate the NDC for each drug. The data was produced in the form in which it was maintained and, more importantly, the data should be sufficient to determine the formulation of the sample (e.g., "Novantrone 20" would refer to the 20 mg size Novantrone).

#### 5. Other Discount Data

Your letter contains a vague reference to "other discount data," including a request for any data regarding "discounts achieved through bundling one product with another." As I informed you in my letter dated May 13, 2004, Immunex's prior production of numerous contracts and price lists, as well as our supplemental production subsequent to that letter last year, should have permitted discovery of whether Immunex engaged in such a practice, which we do not believe it did.

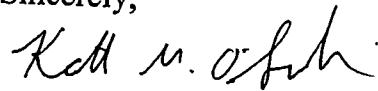
#### 6. Documentation for All Data

Finally, your letter requests "complete documentation for all items above, including descriptions of information in those fields and any descriptions of codes, such as class of trade designations." I have answered your question regarding the class of trade designation above. If you have any other specific questions regarding other fields on the

Sean R. Matt, Esq.  
May 20, 2005  
Page 5

data in the enclosed CD, or in our prior productions, please give me or  
Dave Burman a call and we would be happy to assist you.

Sincerely,



Kathleen M. O'Sullivan

cc: David J. Burman

Enclosure

# Exhibit 10



Kathleen M. O'Sullivan  
PHONE: 206.359.6375  
FAX: 206.359.7375  
EMAIL: kosullivan@perkinscoie.com

1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
PHONE: 206.359.8000  
FAX: 206.359.9000  
www.perkinscoie.com

July 8, 2005

**VIA HAND DELIVERY**

Sean R. Matt, Esq.  
Hagens Berman Sobol Shapiro LLP  
Suite 2900  
1301 Fifth Avenue  
Seattle, WA 98101

**Re: In re Pharmaceutical Industry AWP Litigation  
Immunex Corporation**

Dear Sean:

I write as a follow-up to our telephone conversation on last Friday, July 1. We discussed three topics: (1) pre-1997 sales data, (2) the availability of Immunex's chargebacks data, and (3) the 30(b)(6) deposition notice to Immunex, which you served on May 27, 2005.

**1. Pre-1997 Sales Data**

We discussed that although Immunex does not believe that data that pre-dates 1997 is relevant to plaintiffs' allegations in the above-referenced litigation, Immunex is willing to produce the additional pre-1997 transaction-level sales data that Immunex has. Enclosed is a CD that contains two files, both of which contain information from 1996: "1996 Sales by Transaction.xls" and "1996 YTD Gross Sales." This CD is labeled IAWP 150902 and marked "Highly Confidential" pursuant to the protective order in effect in the MDL.

We already produced similar transactional data to you covering January 1997-December 2001. For the years 1991-1995, Immunex does not have the same kinds of

[06735-0051/SL051870.133]

ANCHORAGE • BEIJING • BELLEVUE • BOISE • CHICAGO • DENVER • HONG KONG • LOS ANGELES  
MENLO PARK • OLYMPIA • PHOENIX • PORTLAND • SAN FRANCISCO • SEATTLE • WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

Sean R. Matt, Esq.

July 8, 2005

Page 2

transaction-level data. Immunex does have access to some summary-level data for those years, as we discussed on the phone. Please let me know if you want us to produce this summary-level data.

## **2. Chargebacks Data**

We discussed that Immunex recently determined (after I sent my letter of May 20 to you) that it has access to transaction-level chargebacks data dating back to 1997. We informed you that we have not seen the entirety of the data, but have seen a sample. You asked to see a copy of the sample, and we agreed. Earlier this week, I sent you a copy of the sample by e-mail. Please let me know if the sample format is useable (I would think that it is), and we will make a supplemental production of Immunex's chargebacks data.

## **3. Rule 30(b)(6) Deposition Notice**

We discussed the Rule 30(b)(6) deposition notice to Immunex. We discussed each of the six topics identified on the notice, as well as deposition scheduling. You stated that, even though the deposition notice, in places, appeared limited to questions regarding the "identity of documents," you were interested in inquiring into the substantive areas and not simply learning the identity of documents that Immunex has already produced. For example, you said that although the first area of inquiry on the deposition notice is described as "The identity of documents describing how prices on physician-administered drugs are established and the identity of persons with knowledge on this issue," you actually are interested in the process by which Immunex established prices for its drugs.

Regarding deposition scheduling, you said that you did not want to take the Immunex deposition before early September. Following our telephone conversation, you and I exchanged emails about potential dates for the two witnesses that Immunex intends to put forward, and you and I agreed on some dates that work for all of us. I am writing to confirm that Immunex's 30(b)(6) depositions will occur on Thursday, September 8, and Wednesday, September 28. The first Immunex witness should be knowledgeable about the first five topics listed in the 30(b)(6) notice that you filed on May 27, 2005, and the second witness will be knowledgeable about the sixth and final topic.

Sean R. Matt, Esq.  
July 8, 2005  
Page 3

Finally, we discussed that Immunex was interested in ensuring that this deposition was coordinated with the other AWP cases (in the MDL and in state court), so that Immunex's witnesses (who are former employees) are not subjected to repeated deposition inquiry on the same topics. Given that the depositions will not occur for at least two months, there should be plenty of time for coordination with the other plaintiffs' counsel.

Sincerely,



Kathleen M. O'Sullivan

cc: David J. Burman

Enclosure

# Exhibit 11



Kathleen M. O'Sullivan  
PHONE: 206.359.6375  
FAX: 206.359.7375  
EMAIL: kosullivan@perkinscoie.com

1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
PHONE: 206.359.8000  
FAX: 206.359.9000  
www.perkinscoie.com

August 1, 2005

**VIA MESSENGER**

Sean R. Matt  
Hagens Berman Sobol Shapiro LLP  
Suite 2900  
1301 Fifth Avenue  
Seattle, WA 98101

**Re: In re Pharmaceutical Industry AWP Litigation**  
**Immunex Corporation**

Dear Sean:

Enclosed is a CD containing chargebacks data relating to the Immunex drugs at issue in the AWP litigation. The CD is bates numbered IAWP150903 and it contains "Highly Confidential Information" pursuant to the Protective Order in effect in this case.

Pursuant to your requests, the data are formatted into a delimited text file format and the CD contains a field layout report that shows the length of each field. Attached to this letter is a hard copy of the file layout report. Please give me a call if you have any questions about the data.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathleen M. O'Sullivan".

Kathleen M. O'Sullivan

KMO:ln  
Enclosures

cc: David J. Burman

[06735-0051/SL052130.087]

ANCHORAGE • BEIJING • BELLEVUE • BOISE • CHICAGO • DENVER • HONG KONG • LOS ANGELES  
MENLO PARK • OLYMPIA • PHOENIX • PORTLAND • SAN FRANCISCO • SEATTLE • WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

## Chargeback Data Extract File Layout Information

## **Layout information:**

**Field Delimiter** TAB  
**Text Delimiter** ~ (ie. ~text data~)

<b>File Name</b>	<b>Record Count</b>
leucovorin_chargebacks.txt	108,182
methotrexate_chargebacks.txt	190,178
leukine_chargebacks.txt	363,236
novantrone_chargebacks.txt	121,120
thioplex_chargebacks.txt	8,833

<u>Field Num</u>	<u>Field Name</u>	<u>Type</u>	<u>Size</u>	<u>Format</u>
1	CB_LINE_ID	Number	22	22.2
2	ACCOUNTING_NUMBER	Text	12	
3	CB_DEBIT_CREDIT_FLAG	Text	2	
4	CONTRACT	Text	20	
5	BUYING_GROUP	Text	12	
6	BUYING_GROUP_DESC	Text	45	
7	BUYING_GROUP_COT	Text	5	
8	BUYING_GROUP_ADDRESS_LINE_1	Text	45	
9	BUYING_GROUP_CITY	Text	45	
10	BUYING_GROUP_STATE	Text	2	
11	BUYING_GROUP_ZIP	Text	9	
12	END_CUST_ID	Text	12	
13	END_CUST_DESC	Text	50	
14	DEA_END_CUST	Text	12	
15	HIN_END_CUST	Text	12	
16	END_CUST_COT	Text	5	
17	END_CUST_COT_DESC	Text	45	
18	END_CUST_ADDRESS_LINE_1	Text	45	
19	END_CUST_CITY	Text	45	
20	END_CUST_STATE	Text	2	
21	END_CUST_ZIP	Text	9	
22	PRODUCT_LINE_ID	Number	5	
23	PRODUCT_LINE_DESC	Text	45	
24	NDC	Number	10	
25	NDC_DESC	Text	45	
26	WHOLESALER_INVOICE_NO	Text	12	
27	INVOICE_DATE	Date	10	DD-MMM-YY
28	DATE_CHARGEBACK_PAID	Date	10	DD-MMM-YY
29	WHOLESALER_COST	Number	15	15.2
30	CHARGEBACK_QTY	Number	5	
31	CONTRACT_PRICE	Number	15	15.2
32	CHARGEBACK_AMT	Number	15	15.2
33	CHARGEBACK_SALE	Number	15	15.2

## 33 Total Fields

# Exhibit 12



Kathleen M. O'Sullivan  
PHONE: 206.359.6375  
FAX: 206.359.7375  
EMAIL: [kosullivan@perkinscoie.com](mailto:kosullivan@perkinscoie.com)

1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
PHONE: 206.359.8000  
FAX: 206.359.9000  
[www.perkinscoie.com](http://www.perkinscoie.com)

September 14, 2005

**VIA MESSENGER**

Sean R. Matt  
Hagens Berman Sobol Shapiro LLP  
Suite 2900  
1301 Fifth Avenue  
Seattle, WA 98101

**Re: In re Pharmaceutical Industry AWP Litigation**  
**Immunex Corporation**

Dear Sean:

Enclosed is a supplemental production of two CDs containing Immunex-related data that we recently discovered. One CD (bates numbered IAWP 151888) contains the only DDD sales data that we believe Immunex currently has available in electronic form. The data is from June 2000-May 2002. The other CD (bates numbered IAWP 151889) contains transactional data from the sale of Immunex's products during the limited period of time in 2002 in which Immunex sold a limited number of products. As you know, we previously produced such transactional data relating to Immunex's products from 1995-2001, but until now, we had located only summary-level data for 2002. Both CDs contain a file layout description containing the field names, their type (i.e., number or text) and their length. Per your prior request, the data on both CDs are formatted into a delimited text file format.

The CDs are labeled "Highly Confidential" and should be treated as such pursuant to the Protective Order in effect in this case. We believe that this completes our supplemental production in response to your letter to David Burman of April 21,

[06735-0051/SL052560.139]

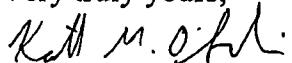
ANCHORAGE • BEIJING • BELLEVUE • BOISE • CHICAGO • DENVER • HONG KONG • LOS ANGELES  
MENLO PARK • OLYMPIA • PHOENIX • PORTLAND • SAN FRANCISCO • SEATTLE • WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

Sean R. Matt  
September 14, 2005  
Page 2

2005. Please let us know as soon as possible if you need any additional electronic data from Immunex, as it has been extremely time-consuming to locate, identify, and produce this data.

Very truly yours,



Kathleen M. O'Sullivan

KMO:ln

Enclosures

cc: David J. Burman

# Exhibit 13



HAGENS BERMAN  
SOBOL SHAPIRO LLP

hbsslaw.com  
1301 FIFTH AVENUE, SUITE 2900 • SEATTLE, WA 98101  
(206) 623-7292 • FAX (206) 623-0594

SEAN R. MATT  
(206) 224-9327  
[sean@hbsslaw.com](mailto:sean@hbsslaw.com)

April 21, 2005

**Via Facsimile**

Mr. David J. Burman  
Perkins & Coie  
1201 Third Avenue, Suite 4000  
Seattle, WA 98101

Re: In re Pharmaceutical Industry AWP Litigation  
Immunex Transaction Data

Dear David:

Plaintiffs' experts have reviewed the sales-related financial data that Immunex has produced. The data is incomplete in several respects. Identified below are additional data requests, in addition to a number of related follow-up questions. Plaintiffs request that Immunex provide this information, which is encompassed by earlier discovery requests, within 30 days.

**1. Direct Sales / Transaction Data**

- a. We only have transaction-level sales data for Leukine and Novantrone (IAWP 135250 - IAWP 135257 and IAWP 135260 - IAWP 135267). We need complete transactional data for all Subject Drugs, including Thioplex, Methotrexate and Leucovorin Calcium.
- b. We only have transactional sales data from January, 1995 to June, 2000. To the extent that this does not cover the entire class period, we need complete transactional data for the time span we do not have.
- c. The transactional data we have received include codes for class of trade, but no description of those codes. Please provide such information for all customers for all drugs.

Mr. David J. Burman  
April 21, 2005  
Page 2

- d. The transactional data we have received contain "NDCs" in a non-standard format, i.e., they are not in the NDC-11 format. If possible, please provide such data for all drugs.
- e. The transactional data we have received do not appear to contain any records such as returns, discounts, price adjustments or other price offsets. To the extent that such transactions or price offsets are maintained in the Immunex sales or invoice or transaction data, please provide such data for all drugs. Also, please provide information sufficient to identify these types of transactions.
- f. Regarding the summary spreadsheets we received (IAWP 150900: "97HistorybyNDC.xls", "98HistorybyNDC.xls", "99HistorybyNDC.xls", "2000HistorybyNDC.xls", "2001HistorybyNDC.xls" and "2002HistorybyNDC.xls" (through 3<sup>rd</sup> quarter)):
  - To the extent the class period extends beyond this time period (1997Q1 to 2002Q3), please provide additional summaries.
  - Please provide a description of how net sales and ASP are calculated. Include in the description what sort of price offsets, rebates, discounts, etc. are factored into net sales and/or ASP.

## 2. Indirect Sales / Chargeback Data

- a. We only have transaction-level chargeback data for Leukine and Novantrone (IAWP 149258). We need complete chargeback data for all Subject Drugs, including Thioplex, Methotrexate and Leucovorin Calcium.
- b. We only have chargeback data from July, 1995 to October, 2001. To the extent that this does not cover the entire class period, we need complete chargeback data for the time span we do not have.
- c. The chargeback data we have do not include customer class of trade information. Please provide such information for all customers for all drugs.

## 3. Rebate and Administrative Fee Data

- a. *To date, we have received no rebate or administrative fee data.*
- b. For all drugs (by NDC), for the entire class period, please provide all rebate transactions, including amount, date of rebate, information sufficient to

Mr. David J. Burman  
April 21, 2005  
Page 3

identify the type of rebate, information sufficient to identify the customer, and class of trade designations (if any).

- c. For all drugs (by NDC), for the entire class period, please provide all administrative fee transactions, including amount, date of payment, information sufficient to identify the type of administrative fee (if applicable), information sufficient to identify the customer, and class of trade designations (if any).

**4. Free Samples Data**

- a. We only have free samples data for Leukine and Novantrone (IAWP 149255 and IAWP 149256). We need complete free samples data for all Subject Drugs, including Thioplex, Methotrexate and Leucovorin Calcium.
- b. We have free samples data from November, 1994 to December, 2000. To the extent that this does not cover the entire class period, we need complete free samples data for the time span we do not have.
- c. The free samples data we have do not indicate the NDC for each drug. Please provide all of the sample data by NDC.

**5. Other Discount Data**

- a. For all drugs (by NDC), for the entire class period, please provide any other discounts not reflected in the above (1 through 4), including but not limited to discounts achieved through bundling one product with another.

**6. Documentation for All Data**

- a. Include complete documentation for all items above (1 through 5) such as lists of fields, descriptions of information contained in those fields (e.g. field lengths, formats, etc.), and descriptions of any codes used in any fields (such as class of trade designations).

Mr. David J. Burman  
April 21, 2005  
Page 4

Thank you for your attention to these data issues, and please call if you have any questions.

Sincerely,



Sean R. Matt

cc: Steve W. Berman, Esq.

# Exhibit 14



**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION**

**THIS DOCUMENT RELATES TO  
ALL CLASS ACTIONS**

**MDL No. 1456**

**CIVIL ACTION: 01-CV-12257-PBS**

**Judge Patti B. Saris**

**FILED UNDER SEAL**

**NOTICE OF RULE 30(b)(6) DEPOSITION**

TO: ALL COUNSEL ON ATTACHED SERVICE LIST:

PLEASE TAKE NOTICE that the undersigned attorneys for Plaintiffs shall take the deposition upon oral examination of a representative of each Defendant in this action who is knowledgeable regarding the matters designated on Exhibit "A", attached. These depositions will be taken pursuant to Federal Rule of Civil Procedure 30(b)(6) and will be recorded by stenographic and/or sound and visual means. The depositions will be taken place as follows:

<b>Deponent</b>	<b>Date and Time</b>	<b>Location</b>
Abbott	10:00 a.m. July 8, 2003	The Wexler Firm One N. LaSalle Street, Suite 2000 Chicago, IL 60602
Astra Zeneca	10:00 a.m. July 8, 2003	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Baxter	10:00 a.m. July 9, 2003	The Wexler Firm One N. LaSalle Street, Suite 2000 Chicago, IL 60602



Bristol Myers Squibb 10:00 a.m. July 8, 2003

Hagens Berman LLP  
225 Franklin Street, 26<sup>th</sup> Floor  
Boston, MA 02110

Immunex

10:00 a.m. July 9, 2003

Hagens Berman LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101

Schering Plough

10:00 a.m. July 9, 2003

Spector, Roseman & Kodroff  
1818 Market St., Ste 2500  
Philadelphia, PA 19103

You are invited to attend and participate.

Dated: June 17, 2003

---

Jeffrey Kodroff  
John Macoretta  
Spector, Roseman & Kodroff, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103

Tom Sobol  
Edward Notargiacomo  
Hagens Berman LLP  
225 Franklin Street, 26<sup>th</sup> Floor  
Boston, MA 02110

Steve W. Berman  
Sean R. Matt  
Hagens Berman LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101

Samuel Heins  
Brian Williams  
Heins, Mills & Olson, P.C.  
700 Northstar East  
608 Second Avenue South  
Minneapolis, MN 55402

CHAIRS OF LEAD COUNSEL COMMITTEE



Marc H. Edelson  
Hoffman & Edelson  
45 West Court Street  
Doylestown, PA 18901

Kenneth A. Wexler  
Elizabeth Fegan Hartweg  
The Wexler Firm  
One North LaSalle Street, Suite 2000  
Chicago, IL 60602

MEMBERS OF LEAD COUNSEL COMMITTEE  
AND EXECUTIVE COMMITTEE



**EXHIBIT "A"**

**INSTRUCTIONS**

All of the definitions from Plaintiffs' First Requests For Production of Documents Directed to All Defendants are incorporated herein by reference.

"AWPID" refers to all of the drugs identified in Exhibit A of the proposed Amended Master Consolidated Class Action Complaint.

"Spread" refers to the difference between AWP or any price upon which reimbursement for a drug is based, on the one hand, and the actual or net price paid for a drug on the other hand.

Unless otherwise specifically stated, each of these Areas of Inquiry encompasses the years 1991 through the present.

**AREAS OF INQUIRY**

1. The identity of all of Your drugs for which an AWP has been stated.

2. The process by which You establish, state, change or are otherwise directly or indirectly involved in setting the AWP, List Price, WAC, Average Wholesale Price, actual sales price, contract price or any other price for each of Your AWPIDs, and the names or job titles of all personnel involved in said process.

3. Your policies or practices concerning the calculation, determination, dissemination, communication or publication of the AWP, List Price, WAC, or any other price for all of Your drugs.

4. The process by which You decide to offer any type of discount, rebate,



incentive or penalty in connection with the purchase of any AWPIID, and the names or job titles of all personnel involved in said process.

5. The identity of all management personnel or management committees responsible for directing, overseeing or coordinating any of the activities referenced in items 2, 3 and 4, above.

6. The identity and nature of any regularly created documents which report, review, comment upon or analyze any price stated or charged for any of Your AWPIIDs.

7. The method by which You calculate or determine the average sales price for Your AWPIIDs, including any determination or rendering of actual transaction costs and/or revenues at any level of the distribution or processing chains.

8. The method by which You calculate or determine the net profit for each of Your AWPIIDs.

9. The identity and nature of any regularly created documents which report, review, comment upon or analyze the profit from any of Your AWPIIDs.

10. The identity and nature of any regularly created documents which report, review, comment upon or analyze the average sales price, or actual sales prices for any of Your AWPIIDs.

11. The nature of Your electronic data or computer databases which relate directly or indirectly to either: (i) the amount of sales, sales prices, discounts or average sales prices for all of Your AWPIIDs, and/or (ii) sales and marketing efforts and/or results.



12. The nature of all computer and e-mail systems or networks used by You for internal communications among Your various offices, departments, sub-divisions and employees and the availability of the electronic data created and/or stored on such systems or networks.

13. The nature of Your documents discussing, analyzing or marketing the Spread on any of Your drugs.

14. The nature of Your efforts to market, promote or tout the Spread on any of Your drugs, and the names or job titles of all personnel involved in said efforts.

15. The nature of all documents comparing any price, rebate or incentive for any of Your drugs with any price, rebate or incentive offered for a competing drug.

16. Any information related to any contention by You that the government had knowledge of any pharmaceutical manufacturer's practices and methodologies for setting the AWP for any drug, without regard to time period.

17. The nature of all communications and agreements between You and any PBM, and the names or job titles of all personnel involved in communicating with PBMs or managing or overseeing Your relationships with PBMs.

18. The nature of all communications and agreements between You and any other pharmaceutical manufacturer regarding AWP, WAC, drug pricing, reimbursement, discounts, rebates, incentives to customers or volume of sales, and the names or job titles of all personnel involved in communicating with other pharmaceutical manufacturers or managing or overseeing Your relationships with other pharmaceutical manufacturers.



19. If applicable, the process by which You decided to join the Together Rx, LLC, and the identities or job titles of all personnel involved in said process or the decision for You to join the Together Rx, LLC.

20. If applicable, the process by which You decided the amount of the discount You would offer for each drug covered by the Together card, and the identities or job titles of all personnel involved in said process or decisions.

21. If applicable, Your participation or involvement at meetings or discussions with other defendants relating to the Together Card.

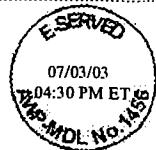
22. The nature and status of any Government Investigation concerning You or any of Your drugs, including your response to any request for information in connection with any Government investigation and the identities or job titles of all personnel involved with any Government Investigation.

23. Your distribution channels and methods and strategies for distributing each of Your AWPIDs.

24. The amount of free samples of each of Your AWPIDs and all of your policies, procedures or programs concerning the distribution of free samples or encouraging customers to bill for free samples.

25. Your document and e-mail retention or destruction policies, and the steps you have taken to preserve documents since this litigation began.

# Exhibit 15



BOSTON LOS ANGELES PHOENIX SEATTLE

hagens-berman.com  
1301 FIFTH AVENUE, SUITE 2900 • SEATTLE, WA 98101  
(206) 623-7292 • FAX (206) 623-0594

STEVE W. BERMAN  
(206) 224-9320  
[steve@hagens-berman.com](mailto:steve@hagens-berman.com)

July 3, 2003

*Via Verilaw*

All Defense Counsel

Re: In re: Pharmaceutical Industry Average Wholesale Price Litigation  
MDL No. 1456  
Re: 30(b)(6) Depositions

Dear Counsel:

We have been asked regarding our intentions with respect to 30(b)(6) depositions noted for next week. The noting dates were suggested dates and we intended that a date would be negotiated and set by agreement. Further, to the extent some defendants believe they are not subject to discovery, we will hold these notices in abeyance until there is clarification from the Court as to the scope of discovery.

Sincerely,



Steve W. Berman

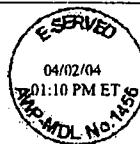
SWB:dls

# Exhibit 16



BOSTON LOS ANGELES PHOENIX SEATTLE

hagens-berman.com  
1301 FIFTH AVENUE, SUITE 2900 • SEATTLE, WA 98101  
(206) 623-7292 • FAX (206) 623-0594



STEVE W. BERMAN  
(206) 224-9320  
[steve@hagens-berman.com](mailto:steve@hagens-berman.com)

April 2, 2004

Via Verilaw

Re: In re AWP Litigation  
MDL 1456

Dear Counsel:

Pursuant to CMO No. 10 and Fed. R. Civ. P. 30(b)(6), we have issued 30(b)(6) notices to many of the defendants. Pursuant to CMO No. 10, you must produce a responsive witness within 45 days.

We are agreeable to discuss dates and places for these depositions, but we will not accept dates outside the date noted.

Your contact point for scheduling purposes is:

Abbott	Beth Hartweg/Wexler
Amgen	Tom Sobol/Hagens Berman
Baxter	Sean Matt/Hagens Berman
Boehringer	Ken Wexler/Wexler
Dey	Brian Williams/Hein Mills
Aventis	Brian Williams/Hein Mills
Immunex	Sean Matt/Hagens Berman
Novartis	Jeffrey Kodroff/Kodroff
Johnson & Johnson	John Marcetta/Kodroff
Fujisawa	Jeffrey Kodroff/Kodroff

Mr. D. Scott Wise  
April 2, 2004  
Page 2



Pfizer	Tom Sobol/Hagens Berman
BMS	Steve Berman/Hagens Berman
Pharmacia	Beth Hartweg/Wexler
Watson	Jeffrey Kodroff/Kodroff
AstraZeneca	Ken Wexler/Wexler
Schering Plough	Steve Berman/Hagens Berman

Sincerely,

Steve W. Berman

SWB:taw



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO  
01-CV-12257-PBS AND 01-CV-339

**AMENDED NOTICE OF RULE 30(B)(6) DEPOSITION**

TO: ALL COUNSEL, ON ATTACHED SERVICE LIST:

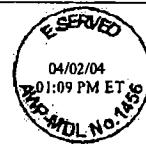
PLEASE TAKE NOTICE that the undersigned attorneys for Plaintiffs shall take the deposition upon oral examination of a representative of each Defendant in this action who is knowledgeable regarding the matters designated on Exhibit "A," attached. These depositions will be taken pursuant to Federal Rule of Civil Procedure 30(b)(6) and will be recorded by stenographic and/or sound and visual means. The depositions will be taken place as follows:

<b>Deponent</b>	<b>Date and Time</b>	<b>Location</b>
Abbott	10:00 a.m.	Within 45 days or on May 10, 2004 The Wexler Firm LLP One N. LaSalle Street, Suite 2000 Chicago, IL 60602
Astra Zeneca	10:00 a.m.	Within 45 days or on May 11, 2004 The Wexler Firm LLP One N. LaSalle Street, Suite 2000 Chicago, IL 60602



Amgen	10:00 a.m.	Within 45 days or on May 12, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Bristol Myers Squibb	10:00 a.m.	Within 45 days or on May 12, 2004 <sup>1</sup>	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Baxter	10:00 a.m.	Within 45 days or on May 14, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Immunex	10:00 a.m.	Within 45 days or on May 17, 2004	Hagens Berman LLP 1301 Fifth Avenue, Suite 2900 Seattle, WA 98101
Schering Plough	10:00 a.m.	Within 45 days or on May 17, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Aventis	10:00 a.m.	Within 45 days or on May 17, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Dey	10:00 a.m.	Within 45 days or on May 18, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Fujisawa	10:00 a.m.	Within 45 days or on May 18, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Pharmacia	10:00 a.m.	Within 45 days or on May 18, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Watson	10:00 a.m.	Within 45 days or on May 12, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Novartis	10:00 a.m.	Within 45 days or on May 12, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110
Boehringer	10:00 a.m.	Within 45 days or on May 12, 2004	The Wexler Firm LLP One N. LaSalle Street, Suite 2000 Chicago, IL 60602

<sup>1</sup> To the extent not covered by prior deposition.



Johnson & Johnson	10:00 a.m.	Within 45 days or on May 19, 2004	Spector, Roseman & Kodroff 1818 Market St., Ste 2500 Philadelphia, PA 19103
Pfizer	10:00 a.m.	Within 45 days or on May 19, 2004	Hagens Berman LLP 225 Franklin Street, 26 <sup>th</sup> Floor Boston, MA 02110

You are invited to attend and participate.

DATED: April 1, 2004

By Steve W. Berman, signature on file  
Thomas M. Sobol (BBO#471770)  
Edward Notargiacomo (BBO#567636)  
Hagens Berman LLP  
225 Franklin Street, 26<sup>th</sup> Floor  
Boston, MA 02110  
Telephone: (617) 482-3700  
Facsimile: (617) 482-3003  
**LIAISON COUNSEL**

Steve W. Berman  
Sean R. Matt  
Kevin P. Roddy  
Hagens Berman LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Facsimile: (206) 623-0594

Samuel Heins  
Heins, Mills & Olson, P.C.  
3550 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402  
Telephone: (612) 338-4605  
Facsimile: (612) 338-4692



Eugene A. Spector  
Spector, Roseman & Kodroff, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 496-0300  
Facsimile: (215) 496-6611  
**CHAIRS OF LEAD COUNSEL  
COMMITTEE**

Marc H. Edelson  
Hoffman & Edelson  
45 West Court Street  
Doylestown, PA 18901  
Telephone: (215) 230-8043  
Facsimile: (215) 230-8735

Kenneth A. Wexler  
Elizabeth Fegan Hartweg  
The Wexler Firm LLP  
One North LaSalle Street, Suite 2000  
Chicago, IL 60602  
Telephone: (312) 346-2222  
Facsimile: (312) 346-0022  
**MEMBERS OF LEAD COUNSEL  
COMMITTEE AND EXECUTIVE  
COMMITTEE**

Michael McShane  
Alexander, Hawes & Audet, LLP  
300 Montgomery Street, Suite 400  
San Francisco, CA 94104  
Telephone: (415) 982-1886  
Facsimile: (415) 576-1776

Robert E. Piper, Jr.  
Piper & Associates  
624 Pierre Avenue  
Shreveport, LA 71103  
Telephone: (318) 226-0826  
Facsimile: (318) 424-9900  
**MEMBERS OF EXECUTIVE  
COMMITTEE**



Anthony Bolognese  
Bolognese & Associates  
One Penn Center  
1617 JFK Boulevard  
Suite 650  
Philadelphia, PA 19103  
Tel: (215) 814-6750  
Fax: (215) 814-6764

Jonathan W. Cuneo  
The Cuneo Law Group  
317 Massachusetts Avenue, N.E.  
Suite 300  
Washington, D.C. 20002  
Tel: (202) 789-3960  
Fax: (202) 789-1813

Neal Goldstein (Of Counsel)  
Freedman & Lorry, PC  
400 Market Street, Suit 900  
Philadelphia, PA 19106  
Tel: (215) 925-8400  
Fax: (215) 925-7516

Michael E. Criden  
Hanzman & Criden, PA  
Commerce Bank Center, Suite 400  
220 Alhambra Circle  
Coral Gables, FL 33134  
Tel: (305) 357-9000  
Fax: (305) 357-9050

Blake M. Harper  
Kirk B. Hulett  
Hulett Harper LLP  
550 West C Street  
Suite 1700  
San Diego, CA 92101  
Tel: (619) 338-1133  
Fax: (619) 338-1139



Jonathan D. Karmel  
Karmel & Gilden  
221 N. LaSalle Street  
Suite 1414  
Chicago, IL 60601  
Tel: (312) 641-2910  
Fax: (312) 641-0781

Dianne M. Nast  
Roda & Nast, PC  
801 Estelle Drive  
Lancaster, PA 17601  
Tel: 717-892-3000  
Fax: 717-892-1200

Henry H. Rossbacher  
Rossbacher & Associates  
811 Wilshire Boulevard,  
Suite 1650  
Los Angeles, CA 90017-2666  
Tel: (213) 895-6500  
Fax: (213) 895-6161

Jonathan Shub  
Sheller, Ludwig & Badey, P.C.  
1528 Walnut Street, 3rd fl  
Philadelphia, PA 19102  
Tel: (215) 790-7300  
Fax: (215) 546-0942

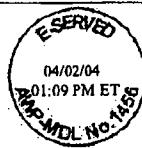
Scott R. Shepherd  
Shepherd & Finkleman, LLC  
117 Gayley Street,  
Suite 200  
Media, PA 19063  
Tel: (610) 891-9880  
Fax: (610) 891-9883

Lisa J. Rodriguez  
Ira Neil Richards  
Trujillo Rodriguez & Richards, LLC  
The Penthouse  
226 West Rittenhouse Square  
Philadelphia, PA 19103  
Tel: (215) 731-9004  
Fax: (215) 731-9044



Mitchell A. Toups  
Weller, Green, Toups & Terrell, L.L.P.  
2615 Calder Street, Suite 400  
P.O. Box 350  
Beaumont, TX 77704  
Tel: (409) 838-0101  
Fax: 409-838-6780

Damon Young  
Lance Lee  
Young, Pickett & Lee  
4122 Texas Boulevard  
P.O. Box 1897  
Texarkana, AR/TX 75504  
Tel: (903) 794-1303  
Fax: 903-792-5098; 903-794-5098  
**ADDITIONAL ATTORNEYS FOR  
PLAINTIFFS**



**EXHIBIT "A"**

**INSTRUCTIONS**

All of the definitions from Plaintiffs' Omnibus Requests For Production of Documents Directed to All Defendants are incorporated herein by reference.

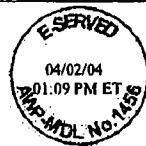
"AWPID" refers to all of the drugs identified Appendix A to the AMCC.

"Spread" refers to the difference between AWP or any price upon which reimbursement for a drug is based, on the one hand, and the actual or net price paid for a drug on the other hand.

Unless otherwise specifically stated, each of these Areas of Inquiry encompasses the years 1991 through the present.

**AREAS OF INQUIRY**

1. The identity of documents describing the process by which You establish, state, change or are otherwise directly or indirectly involved in setting the AWP, List Price, WAC, Average Sales Price ("ASP"), actual sales price, contract price or any other price for each of Your AWPIIDs, and the names or job titles of all personnel involved in said process.
2. The identity of documents describing Your policies or practices concerning the calculation, determination, dissemination, communication or publication of the AWP, List Price, WAC, or any other price for all of Your drugs.
3. The identity of documents containing any definition of AWP, ASP, List Price or WAC.
4. The identity of documents describing the process by which You decide to offer any type of discount, rebate, incentive or penalty in connection with the purchase of any AWPID, and the names or job titles of all personnel involved in said process.



5. The identity of documents identifying all management personnel or management committees responsible for directing, overseeing or coordinating any of the activities referenced in items 1, 2 and 3 above.

6. The identity and nature of any regularly created documents which report, review, comment upon or analyze any price stated or charged for any of Your AWPIDs.

7. The identity and nature of documents describing the method by which You calculate or determine the average sales price for Your AWPIDs, including any determination or rendering of actual transaction costs and/or revenues at any level of the distribution or processing chains.

8. The identity and nature of any regularly created documents which report, review, comment upon or analyze the profit from any of Your AWPIDs.

9. The identity and nature of any regularly created documents which report, review, comment upon or analyze the average sales price, or actual sales prices for any of Your AWPIDs.

10. The nature of Your electronic data or computer databases which relate directly or indirectly to either: (i) the amount of sales, sales prices, discounts or average sales prices for all of Your AWPIDs, and/or (ii) sales and marketing efforts and/or results.

11. The nature of all computer and e-mail systems or networks used by You for internal communications among Your various offices, departments, sub-divisions and employees and the availability of the electronic data created and/or stored on such systems or networks.

12. The nature of Your documents discussing, analyzing or marketing the Spread on any of Your drugs.



13. The location of or identity of documents relating to the nature of Your efforts to market, promote or tout the Spread on any of Your drugs, and the names or job titles of all personnel involved in said efforts.

14. The nature of all documents comparing any price, rebate or incentive for any of Your drugs with any price, rebate or incentive offered for a competing drug.

15. Any information related to any contention by You that the government had knowledge of any pharmaceutical manufacturer's practices and methodologies for setting the AWP for any drug, without regard to time period.

16. The identity of documents regarding communications and agreements between You and any PBM.

17. The identity of documents regarding communications between You and any other pharmaceutical manufacturer regarding: (a) definitions of AWP, ASP, List Price or WAC; (b) calculation, determination, dissemination, communication or publication of AWP, List Price, WAC or any other price; and (c) rebates, chargebacks, free samples or any other marketing practice that an pharmaceutical manufacturer contended was inappropriate, illegal, unethical, fraudulent, or otherwise should be ceased.

18. The identity and nature of documents relating to any Government Investigation concerning You or any of Your drugs, including your response to any request for information in connection with any Government investigation and the identities or job titles of all personnel involved with any Government Investigation.

19. The identity of documentation describing Your distribution channels and methods and strategies for distributing each of Your AWPs.



20. Your document and e-mail retention or destruction policies, and the steps you have taken to preserve documents since this litigation began.



**CERTIFICATE OF SERVICE**

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing PLAINTIFFS' REPLY MEMORANDUM TO DEFENDANT-SPECIFIC MEMORANDA RELATED TO PROPOSED CASE MANAGEMENT ORDER NO. 10 to be served on all counsel of record electronically on 4/2, 2004, pursuant to Section D of Case Management Order No. 2.

  
Steve W. Berman  
**HAGENS BERMAN LLP**  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
(206) 623-7292

# Exhibit 17



David J. Burman  
PHONE: 206.359.8426  
FAX: 206.359.9426  
EMAIL: DBurman@perkinscoie.com

1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
PHONE: 206.359.8000  
FAX: 206.359.9000  
www.perkinscoie.com

May 17, 2004

Sean Matt  
Hagens Berman LLP  
1301 Fifth Avenue  
Suite 2929  
Seattle, WA 98101

**Re: Pharmaceutical Industry Average Wholesale Price Litigation  
30(b)(6) Deposition of Defendant Immunex Corporation**

Dear Sean:

We are responding on behalf of Immunex to Plaintiffs' Amended Notice of Rule 30(b)(6) Deposition.

The Amended Notice designates twenty areas of inquiry that encompass a wide-range of financial and operational aspects of Immunex's business, for a thirteen year time period. Some of the terms in the areas of inquiry are vague or ambiguous; others appear to seek legal conclusions; and many could be read to seek a level of detail that is frankly beyond the capacity of mere mortals, especially in light of Immunex's situation. To clarify our position in advance of the deposition, enclosed with this letter are Immunex's Objections to the Amended Notice, specifying these and other objections.

Immunex has designated three witnesses to testify, subject to Immunex's Objections. Michael Ambielli is the former Senior Director of Commercial Operations for Immunex, and will offer testimony for Areas of Inquiry other than Nos. 7-9 and 20. Kendall Stever is the former Controller for Immunex, and will provide testimony regarding finance and pricing identified in Areas of Inquiry Nos. 1-3, and 6 – 10. Tim Westhoff is the former records manager, and will testify regarding Immunex's practices and policies for document retention, reflected in Area of Inquiry No. 20.

We believe the deposition can comfortably be completed in two days. Mr. Ambielli is available on May 25, and Mr. Stever and Mr. Westhoff are available May 26.

Sincerely,

David J. Burman

[06735-0051/SL041130.149]

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · HONG KONG · LOS ANGELES  
MENLO PARK · OLYMPIA · PORTLAND · SAN FRANCISCO · SEATTLE · WASHINGTON, D.C.

Perkins Coie LLP (Perkins Coie LLC in Illinois)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION,

NO. MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO  
01-CV-12257-PBS AND 01-CV-339

**IMMUNEX CORPORATION'S OBJECTIONS TO PLAINTIFFS'  
AMENDED NOTICE OF RULE 30(b)(6) DEPOSITION**

Defendant Immunex Corporation ("Immunex") hereby objects to Plaintiffs' Instructions and Areas of Inquiry as identified below.

1. On May 13, 2004, Immunex served its Objections and Responses to Plaintiffs Omnibus Requests for Production of Documents Directed to All Defendants (the "Omnibus Requests"). Immunex incorporates its General Objections to the Omnibus Requests as if fully set forth here.

2. The Areas of Inquiry designated by plaintiffs are the equivalent of interrogatories and are objectionable as an attempt to circumvent limits on the number and scope of interrogatories. Plaintiffs may not shift to Immunex the burden of reviewing documents and distilling information from them. It is improper to attempt to bind Immunex to human memories in light of the level of detailed and often technical knowledge apparently sought by the Areas of Inquiry. Immunex will respond to appropriate interrogatories in Areas 11 and 20.

3. The areas of inquiry seek to invade the attorney-client privilege and work product doctrine by seeking to identify specific documents that support or relate to specific legal issues.

4. Immunex is no longer selling or marketing any of the products identified in the AMCC as Immunex products: Leukine®, Novantrone®, Thioplex (thiotepa), leucovorin calcium, and methotrexate sodium. (As alleged in the AMCC, Enbrel® has become an Amgen product, and the Immunex witnesses will not address that product.) Those most knowledgeable about plaintiffs' Areas of Inquiry are no longer employed by Immunex. Immunex has produced to plaintiffs over 100 boxes of documents, most over a year ago, and plaintiffs can review and have reviewed those documents. It is not reasonable for Immunex to arrange former employees to review the huge volume of Immunex documents to search for references to specific topics selected by plaintiffs and to identify individual documents. Immunex will provide available witnesses knowledgeable as to Immunex's common procedures, practices, and reports in the Areas of Inquiry, but will not search for isolated incidents or references or for specific documents.

5. Many of the plaintiffs' definitions and Areas of Inquiry are phrased in slanted fashion, and provision of a witness is not an acceptance of such phrasing.

DATED: May 17, 2004.

By   
David P. Burman, WSBA #10611  
Kathleen M. O'Sullivan, WSBA #27850  
Zoe Philippides, WSBA #30532  
Perkins Coie LLP  
1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
Phone: (206) 359-8000  
Fax: (206) 359-9000

### CERTIFICATE OF SERVICE

On May 17, 2004, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following documents:

Immunex Corporation's Objections to Plaintiffs' Amended Notice of Rule 30(b)(6) Deposition

- |                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/>            | Via hand delivery                            |
| <input checked="" type="checkbox"/> | Via U.S. Mail, 1st Class,<br>Postage Prepaid |
| <input type="checkbox"/>            | Via Overnight Delivery                       |
| <input type="checkbox"/>            | Via Facsimile                                |
| <input type="checkbox"/>            | Via E-filing                                 |

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED at Seattle, Washington, this 17<sup>th</sup> day of May, 2004.

By 

David J. Burman, WSBA #10611

Kathleen M. O'Sullivan, WSBA #27850

Zoe Philippides, WSBA #30532

Perkins Coie LLP

1201 Third Avenue, Suite 4800

Seattle, WA 98101-3099

Phone: (206) 359-8000

Fax: (206) 359-9000